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Proposed programme budget for the biennium 2006-2007

Administration of justice at the United Nations

Administration of justice in the Secretariat

Second report of the Advisory Committee on Administrative and Budgetary Questions

1. The Advisory Committee on Administrative and Budgetary Questions has considered the following reports of the Secretary-General with regard to the administration of justice:

- Revised estimates to the proposed programme budget for the biennium 2006-2007 under sections 1, 8, 28A, 35 and income section 1 of the proposed programme budget for the biennium 2006-2007 (A/60/303)
- Activities of the Ombudsman (A/60/376)
- Administration of justice in the Secretariat (A/59/883)
- Practice of the Secretary-General in disciplinary matters and cases of criminal behaviour, 1 January 2004-30 June 2005 (A/60/315)

2. The Committee met with the Ombudsman of the United Nations and with representatives of the Secretary-General.

3. **During its consideration of these matters, the Committee bore in mind that the panel of external and independent experts to consider redesigning the system of administration of justice (the "redesign panel") called for in General Assembly resolution 59/283 will be established shortly and will be submitting a comprehensive report on the administration of justice. As such, the Committee was of the opinion that a number of the proposals made by the Secretary-General are, in fact, piecemeal at this stage and would need to be revisited in the light of the panel's review.**

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I. Administration of justice at the United Nations: revised estimates to the proposed programme budget for the biennium 2006-2007 under section 1, 8, 28A, 35 and income section 1

4. In response to General Assembly resolution 59/283, the Secretary-General submitted revised budget estimates in the amount of $2,405,600 (net of staff assessment) to implement the requirements of that resolution. Below are the Advisory Committee's comments with regard to the revised budget proposal (A/60/303).

A. Office of the Ombudsman

5. The Advisory Committee recalls that in paragraphs I.1 to I.3 of its first report on the proposed programme budget for the biennium 2006-2007[1] it has recommended to the General Assembly the approval of one P-5 Conflict Management Officer, one P-3 Information Advocacy and Outreach Officer and two General Service (Other level) posts. In its resolution 59/283 (para. 20), the Assembly requested that the Office of the Ombudsman submit proposals for improving access to the Office for staff serving in different locations. In response, the Secretary-General proposes the establishment of three Ombudsman branch offices (in Geneva, Vienna and Nairobi), each headed by a D-1. **In the opinion of the Committee, this proposal needs to be reworked and should be considered further in the light of the work of the redesign panel. In this connection, thought should be given to finding creative ways and means to provide access to staff without automatically creating new offices and/or establishing new posts; full account should be taken of existing requests in the proposed programme budget for 2006-2007. In this connection, the Committee recalls and reiterates its statement in paragraph I.24 of its first report on the proposed budget for the biennium 2006-2007.**

B. United Nations Administrative Tribunal

6. In accordance with General Assembly resolution 59/283, the resources of the Administrative Tribunal will be transferred from section 8, Legal affairs, to section 1, Overall policymaking, direction and coordination, of the budget as at 1 January 2006. The transfer includes four posts, namely one P-5 Executive Secretary, one P-3 Legal Officer and two General Service (Other level) posts.

7. In paragraph 15 of his report (A/60/303) the Secretary-General indicates that, in order for the Tribunal to perform its functions in an independent manner, it would be necessary, in addition to transferring its resources from section 8 to section 1 of the budget, to establish a separate Tribunal administrative office. This office would be composed of one P-3 Administrative Officer and one General Service (Other level) Administrative Assistant post.

8. **Bearing in mind that the entire secretariat of the Tribunal consists of only four posts, in the opinion of the Advisory Committee, it would seem illogical for the executive office functions to require the establishment of two additional**

posts. The Committee has commented in the past on the tendency of the Secretariat to propose new resources for each new or different task. Surely a more pragmatic way can be found to carry out tasks such as the recording of leave requests and the maintenance of various personnel records.

9. **The independence of the Administrative Tribunal, emphasized by the Assembly on a number of occasions, is reinforced by both the perceived and actual complete independence of its secretariat in providing services to the Tribunal. In order to do so, the Tribunal secretariat must not be susceptible to influence by interested parties in the Secretariat. In the opinion of the Committee, the complete separation of the secretariat of the Administrative Tribunal from the Office of Legal Affairs and its placement under section 1 of the budget would provide the safeguard sought by the Assembly. Personnel services for the Tribunal secretariat, which are distinct from and not related to the services that the Secretariat renders to the Tribunal itself, can be provided from an existing executive office, such as the Executive Office of the Office of the Secretary-General. Should the executive office that provides this service find it difficult to absorb, then the capacity released from the Executive Office of the Office of Legal Affairs should be appropriately redeployed. The Committee therefore recommends against the establishment of the additional P-3 and General Service (Other level) posts.**

10. Additional resources ($129,000) for general temporary assistance equivalent to 14 months at the P-2 level are proposed to meet the demands of an expected additional workload (12 months) and activities related to the overall review of the Tribunal (2 months), as requested by the General Assembly. **The Committee supports the Tribunal's efforts to clear its backlogs and ensure future efficiency. The Committee recommends approval of these additional resources.**

C. Panel of Counsel

11. Additional resources for the work of the Panel of Counsel are requested in accordance with paragraphs 25 and 28 of General Assembly resolution 59/283. Paragraph 28 states that in order to increase outreach activities, travel costs for this purpose should be considered for inclusion in the proposed programme budget for the biennium 2006-2007 under section 28A, Office of the Under-Secretary-General for Management. Additional resources in the amount of $31,500 are proposed for travel, daily subsistence allowance and expenses. The Advisory Committee was informed that the proposed programme budget for the biennium 2006-2007 was insufficient to absorb $31,500. **The Committee recalls that, in its first report on the proposed programme budget for the biennium 2006-2007[1] (ibid., paras. 89-92), it reiterated its concern with regard to the harmonization of travel, recommending the increased use of videoconferencing and other electronic means of communication. Bearing in mind the travel resources proposed in the budget as a whole, the Committee does not see the need for an additional appropriation at this time; additional requirements, if any, should be reflected in the first performance report for 2006-2007.**

D. Review of the internal justice system (redesign panel)

12. In response to General Assembly resolution 59/283 (paras. 47-50), the Secretary-General proposes under section 28A, Office of the Under-Secretary-General for Management, additional resources in the amount of $1,060,500 related to requirements for the redesign panel and supplementary support requirements.

Proposed requirements for the redesign panel

Consultants and experts	
Remuneration for five panel members for six months each (based on a base annual salary of $189,952 at the Under-Secretary-General level recruited for services of limited duration)	$474 900
Travel of panel members from home locations to Headquarters (based on three trips per expert)	$104 100
Travel of panel members on mission to Geneva, Vienna, Nairobi, the United Nations Organization Mission in the Democratic Republic of the Congo and Santiago	$151 800
Communication expenses	$10 000
Total	**$740 800**

13. The Committee recalls that resolution 59/283 (para. 50) stipulates that the panel will start its functions no later than 1 February 2006 and will submit its findings and recommendations by the end of July 2006. **The Committee looks forward to the redesign panel's findings and recommends approval in the amount of $740,800 for the above-noted requirements directly related to the panel's activities.**

Proposed supplementary support requirements

Consultants and experts	
Remuneration for a legal consultant (to provide support functions)	$104 800
General temporary assistance equivalent to seven months of one P-5 and one General Service (Other level) posts each	$154 200
Travel of staff	
Travel on mission to Geneva, Vienna, Nairobi, the United Nations Organization Mission in the Democratic Republic of the Congo and Santiago for two support staff	$60 700
Total	**$319 700**

14. The Committee notes that the panel will include three legal experts (namely, one pre-eminent judge or former judge with administrative law experience, one expert in alternative dispute resolution methods and one leading legal academic in international law) and two other experts (one person with senior management and administrative experience in an international organization and one person with United Nations field experience) (see resolution 59/283, para. 48). As such, panel

members should bring with them substantial legal and administrative expertise. The Committee notes that resolution 59/283 defines clear parameters for the conduct of the redesign panel's work, stressing the panel's independence, objectivity and wide range of professional expertise.

15. **Given the high level of the panel and the broad experience of its members, the panel members will surely be actively engaged in all aspects of its work and in formulating conclusions and recommendations. Rather than predetermining the need for any particular type or level of supplementary external expertise, the Committee believes that the panel itself should determine what external expertise it requires, if indeed it needs any, bearing in mind that service from within the Secretariat should, in general, be the first recourse. Taking into account the level of consulting funds available in the budget as a whole, the Committee recommends against the provision of an additional $104,800 for consultant and expert services at this time. Additional requirements, if any, can be reflected in the first performance report.**

16. As noted above, the request for additional resources to support the panel also includes an amount of $154,200 for general temporary assistance, equivalent to seven months of one P-5 and one General Service (Other level) posts, as well as travel for both staff amounting to $60,700. The Committee notes that the budget proposal presumes that the panel would travel to Geneva, Vienna, Nairobi, Santiago and the United Nations Organization Mission in the Democratic Republic of the Congo, notwithstanding the fact that the panel has not yet been formed and may decide to organize its travel in a different way. The Committee notes that each of these locations has well-developed administrative structures in place and any administrative and logistical backstopping can certainly be provided directly from there. Meanwhile, any administrative and logistical support required at Headquarters can easily be provided by the Secretariat itself. With regard to the substantive preparation of the redesign panel's work, such as background papers or briefing notes, the Committee points out that all required expertise, institutional memory and staffing resources are readily available at Headquarters, including the Office of the United Nations Ombudsman, the Office of Legal Affairs, the Department of Management, the Office of Human Resources Management and the Department of Peacekeeping Operations. Under the circumstances, the Committee does not recommend the approval of resources for "stand-alone" support services. **However, the Committee recognizes that the redesign panel would benefit from a point of contact at Headquarters. In view of the fact that the tasks associated with the provision of support services to the panel do not constitute a full-time occupation, the Committee expects that the various entities concerned will collaborate to designate a staff member to act as a redesign panel focal point. That person should function as an executive secretary for the panel and should be redeployed, as necessary, from an existing office to perform that function. Should the person so designated need to travel with the panel, the related resources should be accommodated from within the provision for travel in the budget as a whole.**

II. Activities of the Ombudsman

17. The Advisory Committee takes note of the report of the Secretary-General on the activities of the Ombudsman (A/60/376). **The Committee would find it helpful if future reports could elaborate on the statistics by providing descriptive material based on actual work performed, without prejudicing staff confidentiality. The Committee trusts that the report on the activities of the Ombudsman will serve as a useful information resource for the work of the redesign panel.**

III. Administration of justice in the Secretariat

18. The Advisory Committee recalls that the General Assembly, in its resolution 59/283 (paras. 29 to 33), requested the Secretary-General to submit proposals to separate the Administrative Law Unit's functions through the redeployment of resources, in order to avoid conflicts of interest. With regard to potential conflicts of interest, the Assembly noted that the Administrative Law Unit has the multiple functions of administrative review, appeals, handling disciplinary matters and provision of advisory services. The Secretary-General subsequently analysed the matter and concluded that it would not be in the interest of the Organization to separate the Unit's functions, as the Unit, while functionally assigned the execution of responsibilities related to appeals matters, was an integral part of the Office of Human Resources Management and, within that Office, of the Division for Organizational Development (A/59/883, para. 4). The Secretary-General concluded that the issues raised would also be reviewed by the redesign panel with a view to preparing a comprehensive solution (ibid., para. 9). **The Committee recognizes the value of awaiting the redesign panel's results and trusts that, in considering resolution 59/283, the redesign panel will thoroughly examine and evaluate the Administrative Law Unit's role and functions with a view to avoiding potential conflicts of interest and ensuring staff confidence in the internal justice process.**

IV. Practice of the Secretary-General in disciplinary matters and cases of criminal behaviour

19. The Advisory Committee took note of the report of the Secretary-General on the practice of the Secretary-General in disciplinary matters and cases of criminal behaviour for the period from 1 January 2004 to 30 June 2005 (A/60/315). The Committee regrets that the report did not further analyse the data but rather presented a narrative of cases, including of theft and misappropriation, fraud and misrepresentation. It would be helpful to develop comparative and reader-friendly statistical tables, including the total number of cases brought to the attention of the Secretary-General, the number of cases subsequently reviewed by the Office of Human Resources Management and the cases that resulted in disciplinary or other measures. Such a table should also include an indication of the total number of staff who were actually employed by the Organization during the time period under review. The Committee notes that paragraphs 15 to 38 of the report specify various categories of cases resulting in disciplinary actions against a total of 24 staff members over an 18-month period. However, paragraph 39 of the report notes that data provided by the Office of Internal Oversight Services indicates that for the

same period, a total of 32 cases were referred to national authorities. The report did not indicate whether any of the 24 cases in paragraphs 15 to 38 of the report resulted in referral to national authorities. **The Committee trusts that both the Office of the Secretary-General and the Office of Internal Oversight Services will collaborate to develop one jointly administered database, keeping in mind matters of confidentiality.**

Notes

[1] *Official Records of the General Assembly, Sixtieth Session, Supplement No. 7* and corrigendum (A/60/7 and Corr.1).